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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/718,255

11/20/2003

Roberto Capodiecì

CRI-101

8148

42419

7590

11/03/2006

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EXAMINER

GOODMAN, CHARLES

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,255

Applicant(s)**CAPODIECI, ROBERTO**

Examiner

Charles Goodman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-27 is/are pending in the application.
4a) Of the above claim(s) 22-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. The Amendment filed on 8/14/2006 has been entered.

Election/Restrictions

2. Claims 22-27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group and Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/19/2006. Note the last Office action.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-10, 12-14 and 16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Capodieci '336 (US 6,143,336).

Capodieci '336 discloses an apparatus for forming cereal food products comprising all the elements claimed including, inter alia, an ultrasonic horn (e.g. 194); a reciprocating cutting tool (e.g. 198); a plurality of longitudinally oriented first cutting blades (e.g. 408); and a plurality of longitudinally oriented second cutting blades (e.g.

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the other 408) positioned and connected between with adjacent first cutting blades. Fig. 7.

Regarding claims 5-6 and similar, it appears that Capodieci '336 includes the cutting depths and position within the ranges as claimed.

Regarding claim 8 and similar, it appears that Capodieci '336 have the angle orientation range as claimed, note the products (e.g. 125, 325, 425) and the beveled edges thereof.

Regarding claim 9 and similar, the example shown in Fig. 7 of Capodieci '336 reads on the open first end to the extent that any of the L-shaped portions (e.g. defined by 408, 396 or 408 and the wall to the left of reference 406 in Fig. 7) has an open end (e.g. toward the vertical 408 in Fig. 7) that abuts, e.g. the vertical oriented blade segment (408 - Fig. 7) which in turn defines a closed end of the adjacent blade element.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Capodieci '336 (US 6,143,336).

Capodieci '336 discloses the invention substantially as claimed except for the polished carbide coating. However, it is the Examiner's position that provision of said a

coating is an obvious design choice to the ordinary artisan to the extent that carbide coatings on cutting tools are known for their hardness which provides extended tool life. Thus, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the device of Capodieci '336 with the coating for the reasons stated supra.

Response to Arguments

7. Applicant's arguments filed 8/14/2006 have been fully considered but they are not persuasive.

In response to Applicant's basic argument that Capodieci '336 does not teach or suggest the claimed invention, this argument is traversed. The edges reading on the claimed subject matter are deemed to be "sharpened" due to the extreme acute angle of the identified edges. Applicant's assertion with respect to the leading edges in Capodieci '336 is noted. However, such consideration is not warranted since the claims do not require consideration thereof.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Goodman whose telephone number is (571) 272-4508. The examiner can normally be reached on Monday-Friday between 8:30 AM to 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley, can be reached on (571) 272-4502. In lieu of mailing, it is encouraged that all formal responses be faxed to **(571) 273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

cg

October 30, 2006


Charles Goodman
Primary Examiner
AU 3724

CHARLES GOODMAN
PRIMARY EXAMINER